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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/575,989

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Vincent Jemelin

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SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

EXAMINER

VERMA, RISHI GOPAL

ART UNIT

PAPER NUMBER

3788

MAIL DATE

DELIVERY MODE

01/05/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/575,989	Applicant(s) JEMELIN ET AL.	
	Examiner RISHI VERMA	Art Unit 3788	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-30,32-52 and 54-59 is/are pending in the application.
- 4a) Of the above claim(s) 34-37,39-43,45-52 and 54-59 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-30,32,33,38,44,56 and 59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action Acknowledges the applicant's amendment filed on 10/19/2010.

- Claims 28-30, 32-52, 54-59 are pending in this application.
- Claims rejected 28, 29, 30, 32, 33, 38, 44, 56, 59.
- Claims Cancelled 1-27, 31, 53, 60-61.
- Claims withdrawn 34-37, 39-43, 45-52, 54-55, 57-58.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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Claims 28, 29, 30, 32, 33, 38, 44, 56, 59 are rejected under 35 U.S.C. 103(a) as being obvious over Shumutz et al. (U.S. Patent No. 6261097 B1) in view of Haq et al. (U.S. Patent No.: 6360883 B1) in view of Yen (U.S. Patent No.: 3999434).

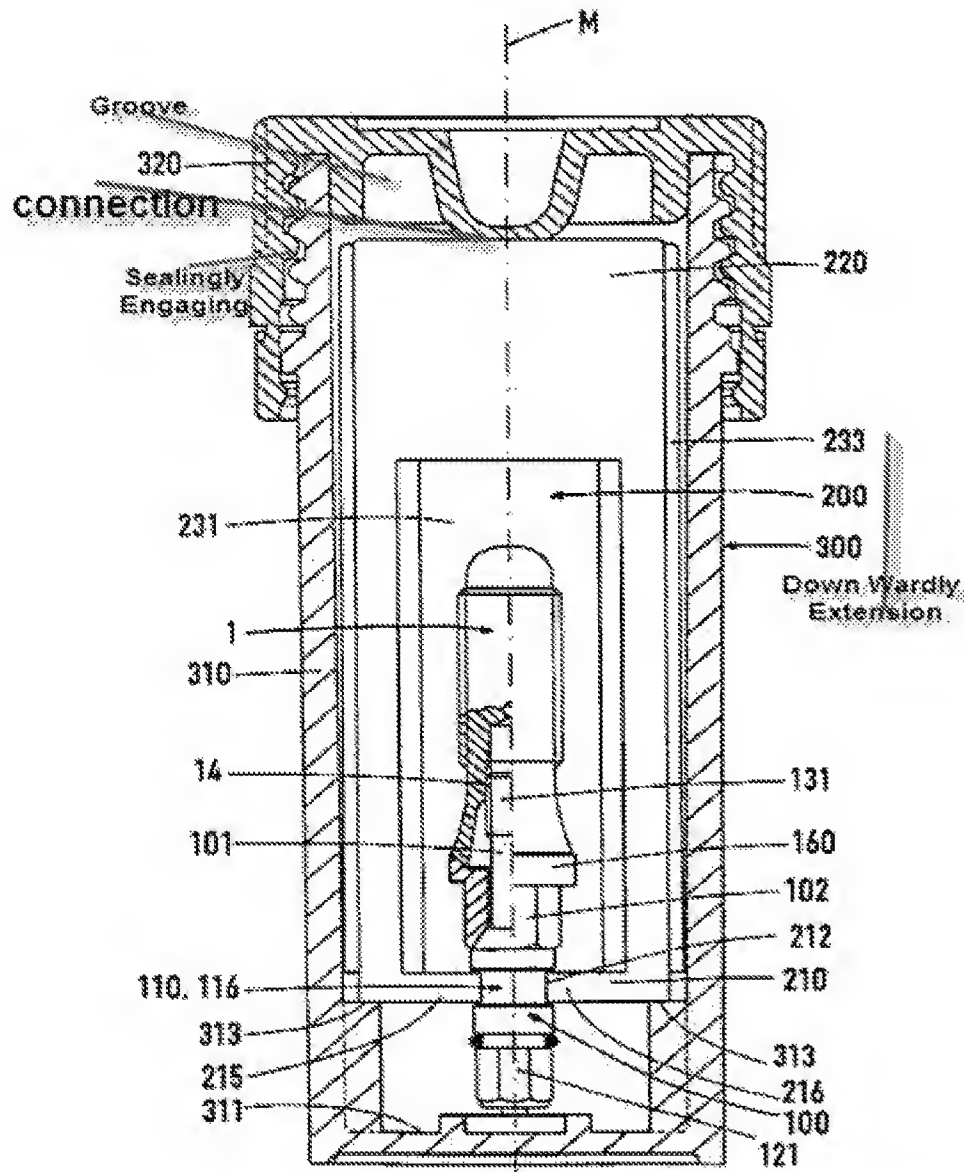
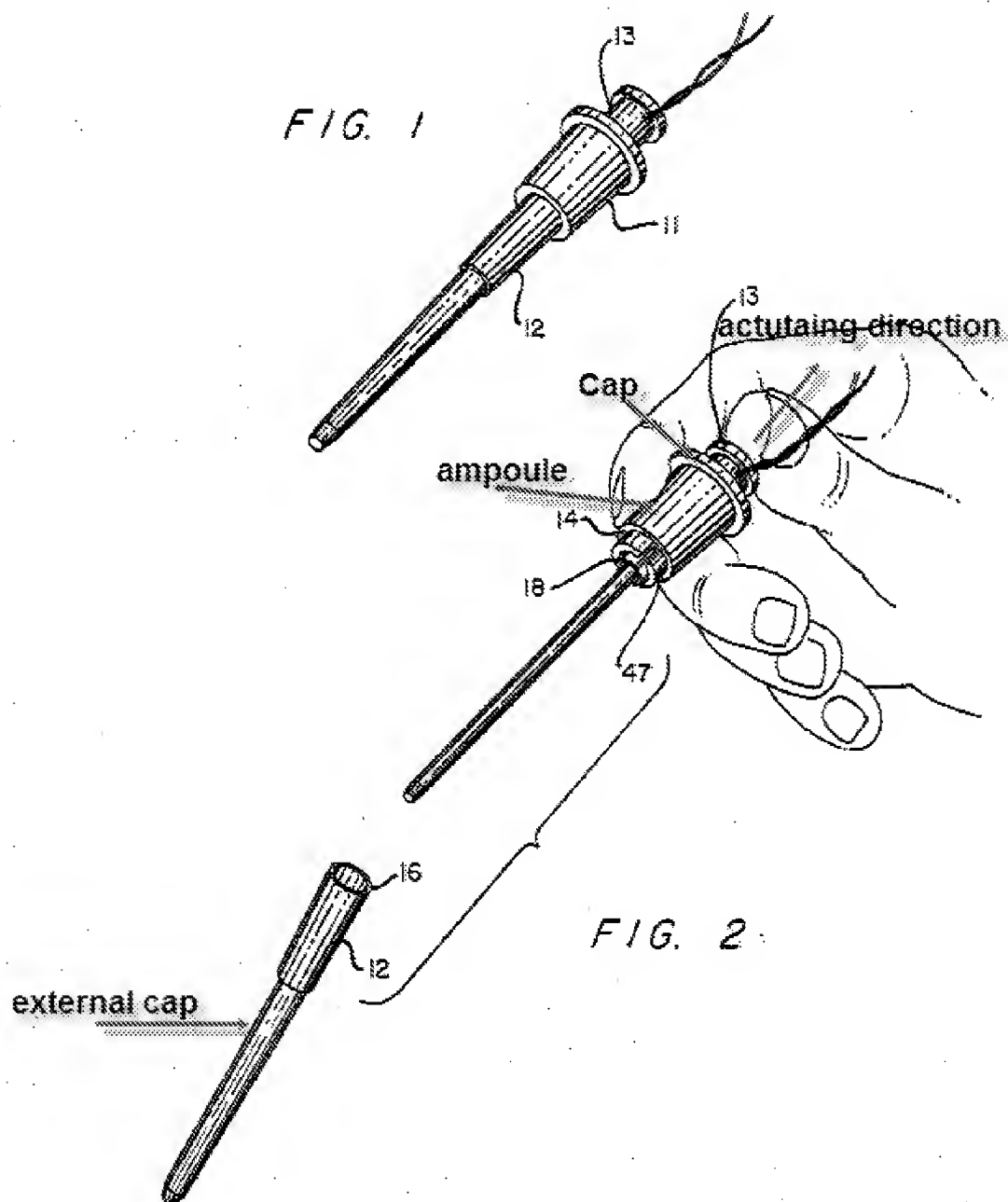
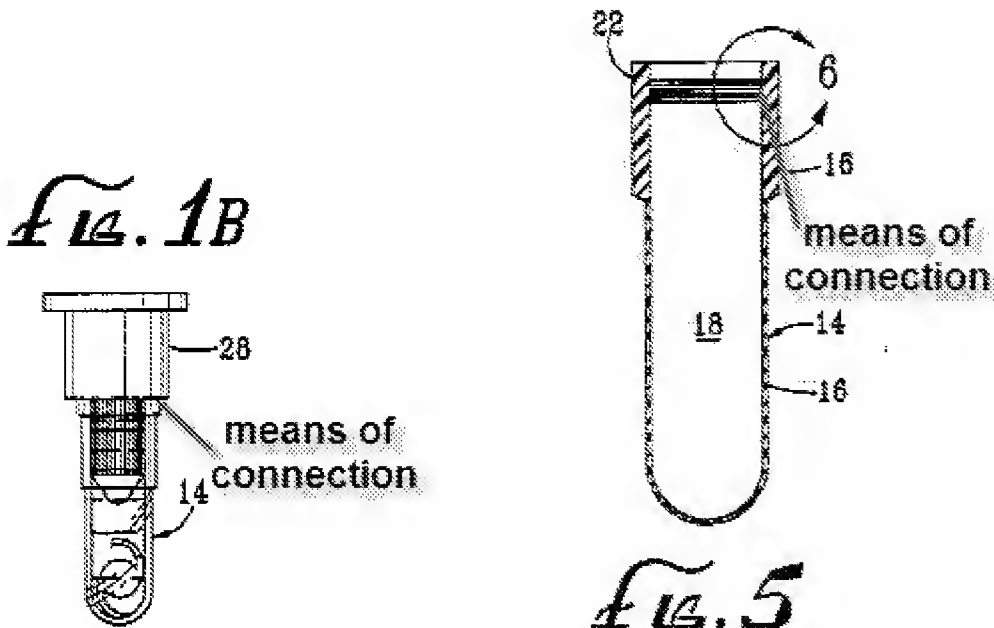


FIG. 5

U.S. Patent Dec. 28, 1976 Sheet 1 of 2 3,999,434





Regarding claim 28, Shumutz et al. teaches a package as illustrated in Fig. 5 capable of preserving a dental implant 1, comprising an external capsule 300; a cap 320 sealingly engaging as labeled above in Fig. 5 the external capsule as illustrated in Fig. 5 and an ampoule 200 capable of holding the dental implant as illustrated in Fig. 5. Shumutz does not teach a means provided to releasably connect to the ampoule such that the means and the ampoule remains connected after removing the cap and the ampoule from the external capsule. Haq teaches a means as labeled above in Fig. 1B and Fig. 5 provided to releasably connect to the ampoule 14 such that the means and the ampoule 14 remains connected after removing the cap and the ampoule from the external capsule 12 as illustrated in Fig. 1B. It would have been obvious to one of the ordinary skills in the art at the time of the invention to modify the means of connection

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between the cap 220 and ampoule 200 of Shumutz with means of threads as illustrated in Fig. 5 taught by Haq in order to assist in removing the retained article coincidentally with removal of the closure (Abstract, last sentence).

Shumutz-Haq does not teach an actuating knob. Yen does teach an actuating knob 13 adapted to cause separation of the ampoule from the means when actuated in axial direction of the ampoule in order to use the probe (Yen, column 3, lines 6-10). It would have been obvious to one of the ordinary skills in the art at the time of the invention to modify the top of the cap 320 of Shumutz-Haq by adding an actuating knob 13 as taught by Yen in order to cause separation of the article from the connecting means when actuated in axial direction for use. It has been held that combining prior art elements according to known methods to yield predictable results would have been an obvious extension to prior art teachings, KSR , 550 U.S. at ----, 82 USPQ2d at 1396, MPEP 2114 III A. After the combination of Shumutz et al.-Haq-Yen a actuating knob is provided to releasably connect to the ampoule such that the means and the ampoule remain connected after removing the cap and the ampoule from the external capsule as labeled above in Fig. 2 (Yen).

Regarding claim 29, Shumutz-Haq-Yen teaches the invention as claimed as applied to claim 28. After combination of Shumutz-Haq-Yen the means forms an integral part of the cap, such that the means releasably connects the ampoule to the cap, said actuating knob extending from an external surface of the cap. "It has been held that the term "integral" is sufficiently broad to embrace constructions united by such means as

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fastening and welding. In re Hotter, 177 USPQ 396, 328 (CCPA 1973). See also MPEP 2144.04(v)(B).

Regarding claim 30, the examiner considers the means is adapted for releasably connecting (Specification, page 7, lines 27-28) invoke 112 6th paragraph.

Shumutz- Haq-Yen teaches the invention as claimed as applied to claim 28; and Shumutz-Haq-Yen further teaches means for releasably connecting (Yen, column 10, lines 19-20 is functionally equivalent to Means for releasably connecting) the ampoule with a cap comprises a snap fitting as illustrated Fig. 8B between the ampoule and the cap, the snap coupling being releasable in an axial of external capsule.

Regarding claim 32, Shumutz- Haq- Yen teaches the invention as claimed as applied to claim 28, and Shumutz- Haq- Yen further teaches the cap 320 is threadingly engaged as illustrated in Fig. 8A with the external capsule 310 and includes a downward extension which as labeled above in Fig. 5, in an assembled state of the package protrudes between the external capsule and the ampoule to snap engages into a groove of the ampoule as illustrated in Fig. 5.

Regarding claim 33, Shumutz-Haq- Yen teaches the claimed invention as applied to claim 28; Shumutz-Haq-Yen further teaches circular groove as labeled above in Fig. 5. Shumutz- Haq-Yen does not teach a top portion of the cap made out of a elastic

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material. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the top portion of the cap to be made out of any material such as plastic or resilient material because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability (example: to make it stronger) for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. After combination of Shumutz-Haq-Yen the actuating knob operatively connected to the top portion of the cap the downward extension of the cap becomes disengaged, thereby separating the ampoule from the cap.

Regarding claim 38, Shumutz- Haq-Yen teaches claimed invention as applied to claim 28; and Shumutz- Haq-Yen further teaches wherein the closed state of the package, the means is surrounded the cap and extends therein. as illustrated in Fig. 8A.

Regarding claim 44, Shumutz-Haq-Yen teaches claimed invention as applied to claim 28; and Shumutz-Haq-Yen further teaches wherein the package further comprises sealing means closing the open end of the capsule as illustrated in Fig. 8A.

Regarding claim 56, Shumutz- Haq-Yen teaches the invention as claimed, and Shumutz-Haq-Yen further teaches an external capsule 300 with exception an aqueous solution. It would have been obvious to one of the ordinary skills in the art at the time of the invention to pour bottled water which is considered an aqueous solution, as a matter of obvious extension of prior art teachings.

Regarding claim 59, Shumutz-Haq-Yen teaches the invention as claimed, with exception of cyclo-olefin copolymer material. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the top portion of the cap to be made out of any material such as cyclo-olefin copolymer, high density polyethylene or resilient material because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability (example: to make it stronger) for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Response To Arguments

Applicant's arguments with respect to claim 29-30, 32, 33, 38, 44, 59, 56 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that there no connection between the ampoule and cap/capsule.

Shumutz-Haq-Yen teaches a connection between ampoule and cap/capsule as labeled above in Fig. 5.

Applicant argues that yen relates to an non-analogous art. It has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re*

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Oetiker, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Yen is reasonably pertinent to ejecting article cover.

Applicant's arguments filed 10/19/2010 have been fully considered but they are not persuasive. The arguments have been addressed in the body of the rejections at appropriate locations.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to RISHI VERMA whose telephone number is (571)270-1390. The examiner can normally be reached on Monday-Friday 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on 571-272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Gregory Pickett/
Primary Examiner, Art Unit 3728

/RISHI VERMA/
Examiner, Art Unit 3728